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# CALIFORNIA STATE AUDITOR

## Bureau of State Audits

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**September 2, 2010**

### **REQUEST FOR PROPOSAL**

#### **Notice to Prospective Proposers for Assessment of the California Housing Finance Agency (CalHFA)**

September 2, 2010

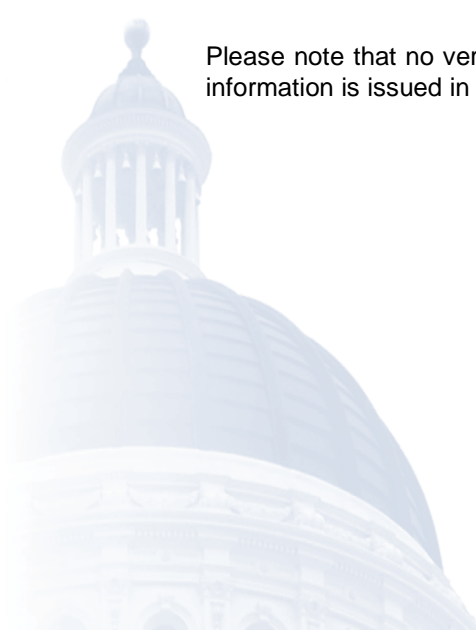
You are invited to review and respond to this Request for Proposal (RFP), titled Assessment of CalHFA, RFP #10-02.

Prospective contractors interested in responding to this RFP are encouraged to email by **September 9, 2010** the contact person listed below indicating their interest and providing the firm's name and address. Submitting the email will ensure that your firm/team receives supplemental or updated information that might be released subsequent to the State Auditor's formal issuance of the RFP.

In the opinion of the Bureau of State Audits, this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Ben Belnap  
Bureau of State Audits  
916-445-0255  
E-mail: [benb@bsa.ca.gov](mailto:benb@bsa.ca.gov)

Please note that no verbal information given will be binding upon the Bureau of State Audits unless such information is issued in writing as an official addendum.



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\* Required

## **Section I**

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### **KEY DATES**

Listed below are the important dates and times by which the actions must be taken or completed. If the State finds it necessary to change any of these dates, it will be accomplished by addendum.

Action	Time	Date
1. Release of RFP		September 2, 2010
2. Intent to Bid Email Due		September 9, 2010
3. Questions Due		September 9, 2010
<b>4. Proposals Due</b>	<b>9:00 a.m.</b>	<b>September 20, 2010</b>
5. Opening of Proposals	9:30 a.m.	September 20, 2010
6. Tentative Award of Contract	5:00 p. m.	September 22, 2010
7. Contract Award and Execution		September 27, 2010

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## **Section II**

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### **REQUEST FOR PROPOSAL—Assessment of CalHFA**

The State of California, through the Bureau of State Audits (State), requests proposals to be submitted for the following purpose and in accordance with each of the following terms and conditions:

#### **1. PURPOSE**

In this request for proposal (RFP) the Bureau of State Audits (bureau) solicits qualified bidders who will be available to assess the future financial solvency of CalHFA and the appropriateness of its actions undertaken to remain solvent.

#### **2. BACKGROUND AND SCOPE OF WORK**

The bureau conducts performance audits approved by the Joint Legislative Audit Committee (JLAC). Attachment A is the audit analysis for the JLAC-approved audit of CalHFA. The analysis contains relevant background about CalHFA and the objectives of the audit. While the bureau's auditors will be responsible for a portion of the audit objectives listed in Attachment A, the bureau asks for proposals from qualified bidders on the following scope of work:

- **Task No. 1:** Examine CalHFA's current financial position and determine the likelihood that CalHFA will remain solvent, paying particular attention to temporary credit and liquidity arrangements with federal government-sponsored enterprises set to expire in December 2012. [Audit objective 7: to be performed by consultant in its entirety.]
- **Task No. 2:** Assist the bureau's audit team with evaluating the appropriateness of the steps CalHFA has taken to avoid insolvency and identify additional steps, if any, that CalHFA should consider to improve its short- and long-term financial position. [Audit objective 6: CalHFA's actions will be documented by the bureau's audit team; consultant to advise on appropriateness and any additional steps that could be taken.]
- **Task No. 3:** Advise the audit team about relevant industry benchmarks with which to compare CalHFA's actions in relation to its debt and mortgage portfolio. [Audit objectives 2 and 3: The bureau's audit team will collect and analyze relevant information; consultant to advise on relevant industry benchmarks.]

### 3. RESPONSIBILITIES AND DELIVERABLES

*Objective One:* Provide a written assessment of the future solvency of CalHFA and the appropriateness of the steps CalHFA has taken to remain solvent (tasks 1 and 2 above).

*Deliverable One:* No later than December 6, 2010, the contractor will provide its written analysis, which should include:

- An executive summary providing an overview of the contractor's analysis.
- A description of the methodology used to arrive at the contractor's conclusions.
- A detailed, written discussion of the contractor's analysis and conclusions, including any relevant tables and other graphics used to demonstrate key points of the analysis.
- Supporting working papers setting forth the evidence used to reach the contractor's conclusions. The Contractor shall ensure that it gathers and provides sufficient, competent, and relevant evidence in support of its deliverables so that an independent person could review the work and reach the same conclusions that the contractor reached. Working papers shall include sufficient cross-references as well as all documents that support the contractor's written report. Prior to commencing fieldwork, Contractor shall meet with the bureau to agree on the format of these working papers. Working papers become the property of the bureau after the contractor completes any final revisions required by the bureau.

*Objective Two:* Advise and assist the bureau (task 3 above).

*Deliverable Two:* Between October 1, 2010, and March 31, 2011, the contractor will be available either in person, by email, or by conference call (as requested by the bureau) to advise and assist the audit team with Task 3 of Paragraph 2 and also with, but not limited to, providing updates to the bureau's executive management, answering agency questions, or conducting legislative briefings after the audit is made public. The bureau expects that hours associated with advice and assistance beyond tasks 1 and 2 described above will be limited to less than 150 hours.

### 4. WORK PHASES

The consulting services shall be provided in six (6) phases and, according to the scope of services for each Phase, as described in the following:

(a) Phase I — Scoping Refinement Phase:

- (i) The term of Phase I is October 4, 2010 to October 15, 2010, unless Contractor receives the prior written approval of the bureau to extend that date.

- (ii) During Phase I of the audit, the Contractor shall perform research, conduct interviews with CalHFA, as necessary, and consult with the bureau, for the purpose of further defining the scope of consulting services that must be performed to meet the objectives stated in the proposal submitted by the Contractor.
- (iii) Contractor shall meet with the bureau on its premises to discuss the scope of the audit during the week of October 18, 2010. At the State Auditor's discretion, this discussion may be achieved via a telephone conference call. Not later than October 25, 2010, the Contractor shall submit a revised written proposal to the bureau, that sets forth: (1) a detailed description of the consulting services to be performed during Phase II of the audit, as described in subparagraph (b) of this Paragraph 4; (2) an explanation of any proposed modifications to the scope of work Contractor described in the Proposal; (3) any proposed changes in the personnel assigned to perform each objective, as described in the Proposal; (4) a description of the work product that will be delivered to meet each objective; and (5) a separate cost component for each objective, including the total number of hours required to produce the work product required for the particular objective, and a cost quotation for each class of personnel that will be used to produce the work product.
- (iv) The revised written proposal shall also include the total projected cost, including the total number of hours, of preparing the initial draft report during Phase III, as described in clause (ii) subparagraph (c) of this Paragraph 4.

(b) Phase II — Fieldwork Phase:

- (i) The term of Phase II is October 18, 2010, to November 19, 2010, inclusive, unless Contractor receives the prior written approval of the bureau to modify those dates.
- (ii) For Phase II, the bureau will review, modify, as necessary, and approve the revised written proposal submitted pursuant to subparagraph (a) of this Paragraph 4, and the scope of consulting services provided by the Contractor shall be limited to those services described in the approved revised written proposal, unless the Contractor receives the prior written consent of the bureau to perform additional services. In addition, the Contractor shall receive approval from the bureau prior to any decision not to perform any services described in the approved revised written proposal that are subsequently determined by the Contractor to be unnecessary. The Contractor shall consult with the bureau throughout Phase II on any refinements or material modifications to the revised written proposal that may become necessary during Phase II.
- (iii) During Phase II of the audit, the Contractor shall assemble workpapers as outlined in Paragraph 3 and shall deliver the workpapers to the bureau for review no later than December 6, 2010, as described in clause (ii) of subparagraph (c) of this

Paragraph 4. Throughout Phase II, the Contractor shall be available to work on the premises of CalHFA and the bureau, as deemed necessary by the bureau.

- (iv) The Contractor shall perform the services described in the approved revised written proposal no later than December 6, 2010 unless the Contractor receives the prior written approval of the bureau to extend that date.
  - (v) The Contractor, including key Contractor personnel, shall be available to meet with the bureau on the premises of the bureau, or via telephone conference call at the discretion of the State Auditor, during the week of November 15, 2010, to discuss the results of Phase II ("status update meetings"), and the additional work that is necessary to complete the audit.
  - (vi) Within two days of the status update meeting described in clause (v) of this subparagraph (b), the Contractor shall submit detailed work plans of any additional fieldwork or analysis, or both, that is necessary to complete the audit. The detailed work plan shall include: (1) the personnel who will be assigned to perform the additional fieldwork or analysis, or both; (2) a description of the work product that will be delivered and why additional work is necessary to meet the relevant objective; (3) the total number of hours required to produce the additional work product required for each additional task, and a cost quotation for each class of personnel that will be used to produce the additional work product; and (4) the dates by which the additional fieldwork or analysis, or both will be completed. Contractor shall perform additional fieldwork or analysis only upon the prior written consent of the bureau.
- (c) Phase III — Writing Phase:
- (i) The term of Phase III is November 20 to December 6, 2010, inclusive, unless the Contractor receives the prior written approval of the bureau to modify those dates.
  - (ii) During Phase III, the Contractor, in consultation with the bureau, shall prepare an initial draft report setting forth statements of facts, analysis, conclusions, and recommendations, and shall finalize the workpapers assembled during Phase II, as described in Paragraph 3, that are used to support those statements of facts, analysis, conclusions, and recommendations. The Contractor shall submit the initial draft report and those workpapers to the bureau no later than December 6, 2010, unless the Contractor receives the prior written approval of the bureau to extend that date. The workpapers shall meet the requirements set forth in Paragraph 3.
  - (iii) In addition, during Phase III the Contractor shall perform additional fieldwork, if any, that the bureau has approved, as described in clause (vi) of subparagraph (b) of this Paragraph 4. If during Phase III the Contractor identifies any additional fieldwork, or analysis, or both, that the Contractor finds is necessary to the audit, the Contractor

shall seek the prior written consent of the bureau prior to performing that additional work, in the manner described in clause (vi) of subparagraph (b) of this Paragraph 4.

- (iv) Throughout Phase III, the Contractor shall be available to work on the premises of CalHFA and the State, including, but not necessarily limited to, the premises of bureau, as deemed necessary by the bureau.

(d) Phase IV — Quality Assurance Phase:

- (i) The term of Phase IV is December 7, 2010 to December 30, 2010, inclusive. All deliverables pertaining to additional fieldwork or analysis approved by the bureau shall be provided no later than December 30, 2010, unless the Contractor receives the prior written approval of the bureau to extend that date.
- (ii) During Phase IV of the audit, the Contractor shall perform any additional fieldwork and analysis that has been approved by the bureau in accordance with the method described in clause (vi) of subparagraph (b) of this Paragraph 4.
- (iii) The Contractor shall also be available to work collaboratively with the bureau in revising the draft audit report submitted to the bureau at the completion of Phase III to include the results of any additional approved fieldwork and analysis performed by the Contractor and to make technical changes to the draft report in accordance with the bureau's writing style. The Contractor shall be available to perform any additional consulting services that the bureau identifies as necessary, including, but not necessarily limited to, revisions to work products submitted to the bureau by the Contractor and consulting with bureau on refining the draft report, and answering questions posed by the bureau.
- (iv) Throughout Phase IV, the Contractor shall be available to work on the premises of CalHFA and the State, including, but not necessarily limited to, the premises of bureau, as deemed necessary by the bureau.

(e) Phase V — Final Review/Publishing Phase:

- (i) The bureau anticipates that the term of Phase V will be from January 3, 2011, to no later than February 24, 2011.
- (ii) During Phase V of the audit, the Contractor shall be available to perform any additional consulting services that the Bureau identifies as necessary, including, but not necessarily limited to, revisions to the work products submitted to the bureau by Contractor, consulting with the bureau on refining the draft report, answering additional questions raised by the bureau, and assisting the bureau in responding to any concerns about audit findings that are raised by CalHFA.
- (iii) At the request of the bureau, Contractor, including key personnel, shall be available to accompany the bureau at an exit conference with CalHFA, tentatively scheduled



for the 1<sup>st</sup> week in February 2011. At its discretion, the bureau may require that attendance to be either in person or via teleconference.

(f) Phase VI — Public Meeting Phase:

The term of Phase VI is from no later than February 24, 2011 to June 30, 2011, inclusive.

During Phase VI of the audit, the Contractor shall be available, at the request of the bureau, to assist the State Auditor in preparing for and providing testimony to the California Legislature and to assist the State Auditor in meeting with Members of the California Legislature concerning the results of the audit. The bureau may require this assistance to be provided in the state capitol in Sacramento or via teleconference, as appropriate.

## **5. TRAVEL**

CalHFA and the bureau are headquartered in Sacramento, California. The bureau does not anticipate the need for additional travel to other locations within the State. Any travel to other locations must be approved in writing by the State Auditor in advance of the travel.

## **Section III**

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### **Proposal Requirements and Information**

#### **1. TIME SCHEDULE**

All prospective contractors are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

<b>Event</b>	<b>Date</b>
Proposal Posting on State Web site	September 2, 2010
Intent to Bid Email	September 9, 2010
Written Questions Submittal Deadline	September 9, 2010
Final Date for Proposal Submission	September 20, 2010 by 9 a.m.
Opening of Proposals	September 20, 2010
Evaluation Completed	September 22, 2010 by 5 p.m.
RFP award notice posted at Bureau Web site	September 23, 2010
Agreement Award	September 23, 2010
Contract approved and signed	September 27, 2010
Contract work starts	October 4, 2010

#### **2. DUE DATE**

TIME IS OF THE ESSENCE. Proposals must be submitted and received not later than **9 A.M. on September 20, 2010**, and shall be delivered via Federal Express or other similar delivery service. Late proposals will not be accepted without exceptional cause and the express written permission of the State.

#### **3. ADDRESS**

Proposals shall be sent in a sealed envelope, clearly marked:  
**"Response to RFP No. 10-02,"** and addressed to:

Bureau of State Audits  
Attention: Ben Belnap  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

#### **4. QUESTIONS**

Prospective contractors requiring clarification or further information on the intent or content of this RFP or on procedural matters regarding the competitive bid process may request clarification by submitting questions with a cover page clearly marked "**Questions Relating to RFP No. #10-02**" via fax to (916) 327-0019 or mail to:

Bureau of State Audits  
Attention: Ben Belnap  
Questions Relating to RFP No.# 10-02  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

To ensure response, questions must be received in writing by 5 p.m., **September 9, 2010**. Question and answer sets will be provided to all prospective contractors without identifying the submitters.

If disclosing questions regarding a proposal to other prospective contractors would compromise proprietary information, a prospective contractor may seek clarification or further information on the content of the RFP by marking the question packet "CONFIDENTIAL" and submitting questions as described above. The prospective contractor must explain why his/her questions are sensitive in nature. If the State concurs that disclosure of the question or answer would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will be kept in confidence. If the State does not concur with the proprietary aspect of a question, the question will not be answered in this manner and the prospective contractor will be so notified.

#### **5. COPIES**

The prospective contractor should submit four (4) legible copies of its proposal. The original proposal must be marked "ORIGINAL COPY." All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to legally bind the proposing firm. All additional proposal sets may contain photocopies of the original package.

#### **6. FORMAT OF PROPOSALS**

To facilitate the two-stage review of proposals as described in Paragraph 10 of Section III of this RFP, each proposal should be submitted in two separate parts and in sealed envelopes. Part I should contain all responsive materials except those relating to cost. Part II should contain only information relating to costs that will be charged by the contractor.

## **7. MINIMUM CONTENTS OF PROPOSAL**

At the sole discretion of the State, a proposal may be eliminated from consideration if it fails to contain each of the following provisions or to provide a justification satisfactory to the State for its exclusion:

- a. Identification of the prospective contractor, including the name of the firm submitting the proposal, its mailing address, telephone number, e-mail, and contact if further information is desired.

- b. Management:

Identification by name of the lead personnel the contractor proposes to assign to the engagement. Contract terms will not permit substitution of lead personnel without prior written approval of the State.

- c. Personnel:

For each individual that the prospective contractor proposes to assign to the engagement (excluding administrative support), the proposer must provide a summary of similar work or studies performed, a resume, and a statement indicating his/her planned responsibilities and percentage of work to be performed under the contract. Any limiting factors on the availability of these individuals should be identified. Individuals assigned to the engagement must have experience and expertise in evaluating the financial position of a housing agency. The proposal must also specifically note relevant certificates/licenses held by proposed staff and whether proposed staff or the firm has been the object of any disciplinary action by a licensing or regulatory authority during the past three years. Former employees of the State may not work on any State contract project within one year of termination. The State, in its sole discretion, reserves the right to reject any individual proposed to be assigned to the engagement.

- d. Related experience.

Prospective contractors shall provide the State with a listing of engagements similar to the types of analyses described in this RFP. Specifically, the list must include three examples of engagements in which the contractor independently evaluated the financial position of a housing agency. The listing should include:

- Title of the project;
- Name of the evaluated entity;
- Brief description of the project; and
- Name and telephone number of the evaluated entity's contracting officer.

By furnishing this information, the prospective contractor gives permission to the State to contact these entities regarding the prospective contractor's past performance.

If the firm is newly organized, a listing of projects completed by lead personnel during previous employment may be acceptable. Moreover, if the contractor is a joint venture, the experience of the joint venturers may be combined.

e. Subcontracts.

The prospective contractor must list any prospective subcontractors it plans to use in performing the work, including a listing of the individuals the subcontractor proposes to assign to the engagement, in accordance with Subparagraph (b) and (c) of this paragraph. Prospective subcontractors must also be listed on the Bidder Declaration, Attachment J to this RFP. The State, in its sole discretion, reserves the right to reject subcontractors proposed by the contractor.

f. Methodology.

The proposal shall include a description of the prospective contractor's overall approach to providing the services described in Section II of this RFP. The proposal must include specific techniques to be used in the types of analyses described in this RFP.

g. Independence/Conflict-of-Interest Disclosure.

- (i) The prospective contractor must disclose and shall have a continuing duty to disclose any financial, business, or other relationship of the contractor, subcontractor, or individual employees that may have an impact on the work to be performed (see Attachment K to this RFP).
- (ii) In this disclosure, the prospective contractor must include information regarding situations that might create an appearance of a lack of independence, regardless of whether the prospective contractor believes that the situation creates an actual conflict of interest, and how the prospective contractor intends to manage such situations. If the contractor believes that there may be an appearance of a conflict of interest or lack of independence based on any previous or ongoing work the contractor has performed or is performing, the contractor shall specifically address how it plans to address and manage that appearance, including, but not limited to, how appropriate fire-walls would be established by the contractor to guard against that appearance.
- (iii) If the contractor believes that no conflict of interest or appearance of lack of independence as described above exists, then a statement to that effect must be made in the contractor's proposal.

- (iv) The State shall have the right to disqualify or terminate a contractor if it believes that the best interests of the State require that the contractor be disqualified or terminated because the contractor has a conflict of interest or because a situation exists that creates the appearance of a lack of independence and also to disqualify any proposed personnel on that basis.
- (v) In accordance with State policy, any contractor selected to provide services to the State may be required to submit a Statement of Economic Interest (Form 700). See subparagraph (a) of paragraph 18 of Attachment C of this RFP.

h. Cost.

The proposal shall include a quotation of charges, including the classes of personnel to be used in the project, the total hourly rate charged for each class, the estimated number of hours that each class of personnel will charge, and any other costs for equipment, software, or supplies. **The proposal should include a separate cost component for objective 1 from the Responsibilities and Deliverables section.** These cost components must project the total number of hours required to produce the deliverables and contain a cost quotation of charges for each class of personnel that would be used to produce the deliverables. **The proposal should include hourly costs for objective 2 from the Responsibilities and Deliverables section.** It is understood that the total number of hours associated with this objective is dependent on specific requests for advice and assistance made by the bureau. The bureau does not anticipate needing any more than 150 hours of advice and assistance under objective 2.

The charges must be provided as hourly rates and should be applicable throughout the contract period.

The proposal must detail and include any other charges (such as charges for clerical support, reproduction, and delivery) that would be charged to the State. If the State requires travel, the rates for travel-related expenses shall not exceed the rates established for employees of the State of California.

The State will pay only for hours actually worked at the rates submitted and for actual expenses incurred.

The amount available for the costs of travel, if any, shall be negotiated with the selected contractors in conformity with Subparagraph (c) of paragraph 4 of Attachment C of this RFP.

i. Preference for Small Business

The proposal shall indicate if the firm claims a small business preference and, if applicable, must certify their small business certification using Attachment I. Prospective small business subcontractors must be listed on the Bidder Declaration attached to this RFP (Attachment J) and certifications issued by the Department of General Services, Office of Small Business and DVBE Services must also be submitted with the proposal.

If a firm qualifies for this Small Business Preference, the State will reduce the firm's cost estimate by 5 percent when comparing it to the cost estimates included in the other proposals received.

j. Incentive for Disabled Veterans Business Enterprise Participation

The proposal shall indicate if the firm claims Disabled Veterans Business Enterprise participation (DVBE) and if applicable, must certify their DVBE participation using Attachment I. Prospective DVBE subcontractors must be listed on the Bidder Declaration attached to this RFP (Attachment J) and certifications issued by the Department of General Services, Office of Small Business and DVBE Services must also be submitted with the proposal.

If a firm qualifies for the DVBE incentive, the State will reduce the firm's cost estimate when comparing it to the cost estimates included in other proposals received. Attachment H describes the percentage incentive for bidders who provide DVBE participation.

k. Darfur Contracting Act Certification

The proposal shall include an executed Darfur Contracting Act Certification. The Certification is Attachment G to this RFP.

## **8. OTHER CONTENTS OF PROPOSAL**

The prospective contractor may include any relevant information and pertinent exhibits in the proposal. Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this solicitation letter. Emphasis should be on conformance to the instructions and responsiveness to the requirements described herein, and on completeness and clarity of content.

Proposals must be complete in all respects and submitted by dates and times shown in Section III, paragraph 1 of this RFP. A proposal may, in the sole discretion of the State, be rejected if it is conditional, incomplete, or it contains any alterations of form or other irregularities.

## 9. CONFIDENTIALITY

In accordance with the statutes governing the State, the contractors and each of their employees or agents assigned to the contract will be required to execute a confidentiality agreement (Cal. Gov. C. Sec. 8545.3, Attachment D to this RFP).

## 10. REVIEW PROCESS AND CRITERIA

Subject to Paragraphs 7 and 12 of this Section, the State will select the successful contractors on the basis of both merit and cost, with a preference of 5 percent on the cost of its proposal given to qualified small businesses and the applicable percentage cost preference for DVBE participation. An evaluation committee will only be given Part I of each proposal and will score the merit of each proposal using the following criteria:

Criteria for Evaluating Merit of Proposals	Maximum Points
<b>Technical Aspects of Proposal:</b>	
Quality of approach and methodology	20
Clarity and succinctness of proposal	10
<b>Organizational Capabilities:</b>	
Demonstrated ability to successfully perform analyses of the financial position or future solvency of housing agencies.	25
Qualifications and experience of management and lead staff to be assigned to the project	30
Related organizational experience	<u>15</u>
<b>TOTAL</b>	<b><u>100</u></b>

Any proposal not receiving a merit score of 75 or more will be eliminated from further consideration. To determine the merit score, the State may apply a statistical averaging method to scores submitted by an evaluation committee.

Part II (Cost Proposal) of the proposal will be evaluated for each contractor scoring 75 or more merit points.



The overall evaluation will be in accordance with the following process:

During this phase, cost proposals will be opened. The cost proposal with the lowest price will be assigned a score of 100 points. Other cost proposals will be assigned points on a proportional basis relative to the cost of the lowest bid (after adjustments are made for any applicable preference programs). For example, if the second lowest bid is 20 percent higher than the lowest cost bid, it will be assigned a point score of 80, which is 20 percent lower than the point score or rate of the lowest cost bid.

Part I – Technical Merit – score will be weighted 65 percent and each cost score will be weighted 35 percent to create a combined overall score of 100 percent.

The firm with the highest combined score at the end of Phase II will be awarded the contract agreement.

If no proposals are received containing bids offering a price, which in the opinion of the State is a reasonable price, the State is not required to award an agreement.

During the evaluation and selection process, the State may request the presence of a prospective contractor's representative for answering specific questions, orally and/or in writing. If discrepancies between sections or other errors are found in a final proposal, the State may reject the proposal; however, the State may, in its sole discretion, retain the proposal and correct any arithmetic or transposition errors in price or quantity. The State will notify all prospective contractors of its decision to award the contract.

## **11. NOTICE OF INTENT TO AWARD**

The State will notify all prospective contractors of its tentative decision to award the contract. Within five days after the notification is mailed by the State, any person or firm that has submitted a proposal can protest the tentative award of the contract to another party by submitting the grounds for the protest to the State. The State will make a final award of the contract if it determines that the grounds for the protest are invalid.

If the State determines that the grounds for the protest are valid, the State will notify all prospective contractors of the tentative change in the award of the contract. The procedure described in the previous paragraph will then again be followed.

## **12. RIGHT TO REJECT ANY OR ALL PROPOSALS**

The policy of the State is to solicit proposals with a bona fide intention to award a contract. The State, in its sole discretion, may reject any and all bids submitted in response to this RFP, without regard to the cost or quality of the proposal, or other considerations upon determination that it is in the best interest of the State to do so.

### **13. MODIFICATION OR WITHDRAWAL OF PROPOSALS**

Any proposal that the State receives before the date set for receipt of proposals may be withdrawn or modified by written request of the prospective contractor. However, to be considered, the modified proposal must be received by the deadline set for receipt of original proposals.

### **14. MODIFICATION OR AMENDMENT OF THIS REQUEST**

This RFP may be modified at any time prior to the time set for receipt of proposals and thereafter as long as no proposal has been opened. Upon any such modification, all prospective contractors will be notified, and any person or firm who has expressly requested such notice in writing will also be notified. However, persons or firms who have been invited to propose, but who have not indicated their interest in writing, may not be notified of such changes at the discretion of the State.

### **15. INCORPORATION OF ATTACHMENTS**

This RFP consists of 54 pages and contains the following attachments, which are hereby incorporated into this proposal by reference:

Attachment A	Analysis of Audit Request
Attachment B	State of California Standard Agreement Form
Attachment C	General Terms and Conditions
Attachment D	Confidentiality/Nondisclosure Agreement
Attachment E	Encryption and Information Privacy Policy
Attachment F	Certification of Special Terms and Conditions
Attachment G	Darfur Contracting Act Certification
Attachment H	Small Business and Disabled Veteran Business Enterprise Incentive
Attachment I	Proposal/Proposer Certification Sheet
Attachment J	Bidder Declaration
Attachment K	Independence Questionnaire/Conflicts of Interest Disclosure
Attachment L	Attachment Checklist

### **16. ACCEPTANCE**

Proposals to this request by prospective contractors constitute an express acceptance of all provisions of this RFP, including all attachments, exhibits, and schedules; however, the State, in its sole discretion, may negotiate with the contractor on specific provisions of the final agreement.

## **17. PUBLIC DISCLOSURE OF PROPOSAL**

All proposals will become property of the State of California and will, along with the summaries of evaluations, be available to the public for review after the contract is awarded. Proprietary information in the proposals will remain confidential as permitted by law. To prevent its release to the public, the proposer must indicate what information in the proposal is proprietary, with citation to the relevant provisions of law exempting or precluding that information from public disclosure.

## **Attachment A**

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### **ANALYSIS OF AUDIT REQUEST 2010-123 August 4, 2010**

#### **I. AUDIT REQUEST**

Senator Steinberg is requesting an audit of the California Housing Finance Agency (CalHFA) to determine the decisions and actions that contributed to its current fiscal condition and to examine its future financial solvency.

#### **II. BACKGROUND**

CalHFA was created in 1975 as the State's affordable housing bank to make low-interest rate loans through the sale of tax-exempt bonds. More specifically, it is authorized to issue bonds, notes, and other obligations to fund loans to qualified borrowers for single-family and multi-family housing for low- and moderate-income persons and families. CalHFA is entirely self-supporting, bonds are repaid by revenues generated through mortgage loans; therefore, it does not draw on the general taxing authority of the State. CalHFA administers the California Housing Finance Fund (Housing Fund), California Housing Loan Insurance Fund (Insurance Fund), and two state general obligation bond funds. As of June 30, 2009, the audited financial statements of the Housing Fund, the operations of which include issuing CalHFA bonds and notes, show liabilities totaling \$9 billion and assets totaling \$10.8 billion. Over the five-year period between fiscal years 2003-04 and 2007-08, this fund reported operating income amounting to approximately \$208 million; however, in fiscal year 2008-09 alone it suffered an operating loss of \$146 million.

In the last decade, CalHFA issued a large amount of variable rate bonds hedged by interest rate swap agreements<sup>1</sup> with financial institutions, including the now defunct Lehman Brothers. In fiscal year 2008-09, the Housing Fund reported losses of

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<sup>1</sup> An interest rate swap is a contractual agreement between two parties who agree to exchange (or swap) certain cash flows over a given period. Such a swap may be used to convert one type of interest rate into another, for example to convert a variable interest rate to a fixed interest rate.

\$37.9 million due to basis mismatch, the difference between actual interest rates paid to holders of CalHFA's variable rate bonds and interest rates on CalHFA's interest rate swaps. In addition, after Lehman Brothers filed for bankruptcy, CalHFA terminated its swap agreement with this firm, resulting in a net \$13.7 million loss. As of June 30, 2009, variable rate instruments made up about 61 percent of the Housing Fund's \$8.2 billion in outstanding bonds and notes. In December 2009 CalHFA entered into an agreement with two government sponsored enterprises—Fannie Mae and Freddie Mac—under a federal Temporary Credit and Liquidity Program meant to reduce the cost of maintaining existing financing. The agreement covers more than \$3.4 billion of CalHFA's variable rate debt and is scheduled to expire at the end of 2012.

Similar to nationwide trends in the last few years, CalHFA has also been negatively affected by a rise in loan delinquencies and foreclosures, and a drop in real estate values. These negative effects led CalHFA to increase its Housing Fund's loan loss reserve by a net \$31.5 million and to write down its outstanding foreclosed properties by \$15.1 million in fiscal year 2008-09. As of June 30, 2009, CalHFA had also established an \$80.1 million insurance loss reserve to cover anticipated indemnification payments related to its Insurance Fund. Though CalHFA did not make subprime loans, the overall delinquency ratio of its single-family loan portfolio has doubled from 7 percent as of June 30, 2008, to 14 percent one year later. Further, CalHFA's ratio of loans delinquent for 90 or more days continued to rise in fiscal year 2009-10 and stood at 11.8 percent as of April 30, 2010. In April 2010 Standard & Poor's Ratings Services and Moody's Investor Services lowered their ratings on CalHFA's Home Mortgage Revenue Bonds and noted that the ratings remain on watch with negative implications.

In March 2010 an analysis by Lamont Financial Services (Lamont) requested by the Department of Finance indicated that CalHFA, in its present circumstances, is severely restricted from continuing to meet its mission to assist California low- and moderate-income homebuyers due to liquidity and capital constraints. It highlighted a number of significant concerns, including total expected losses on outstanding loans of between \$337 million and \$626 million, the financial position of the firm that insures loans for CalHFA, and the implications of further downgrades on ratings. Lamont also indicated that unless there is a provision for alternative liquidity beginning in 2013, after the expiration of the agreement with Fannie Mae and Freddie Mac, CalHFA's general obligation bonds will experience additional cash/liquidity difficulties. It concluded that solving CalHFA's problems would not be easy and would require legislative support, a unified "state of California voice," continued federal assistance, and the cooperation of private parties.

Senator Steinberg is requesting the audit to examine the solvency of CalHFA and to assist in ensuring responsible stewardship of the State's bond financing process.

### **III. AUDIT SCOPE AND OBJECTIVES**

The audit by the Bureau of State Audits will provide independently developed and verified information related to the financial position of CalHFA and would include, but not be limited to, the following:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.
2. Identify what actions, policies, and procedures led CalHFA to issue the types and amounts of variable rate debt it issued since 2000 and to establish any related interest rate swaps.
3. Identify what actions, policies, and procedures led CalHFA to issue certain types and amounts of mortgage loans and to establish particular insurance programs related to these loans.
4. Identify the roles of staff, advisors, and consultants in developing and implementing decisions related to the types of bonds issued, including related interest rate swaps, loans purchased, and insurance established by CalHFA.
5. Determine to what extent the CalHFA Board was informed of and involved in decisions identified under objective #4 and evaluate how the current governance structure of CalHFA promotes or inhibits prudent financial decision making.
6. Identify steps CalHFA has taken to avoid insolvency and evaluate their appropriateness. Identify additional steps, if any, that CalHFA should consider to improve its short- and long-term financial position.
7. Examine CalHFA's current financial position and determine the likelihood that CalHFA will remain solvent, paying particular attention to temporary credit and liquidity arrangements with federal government-sponsored enterprises set to expire in December 2012.
8. Review and assess any other issues that are significant to the continued financial solvency of CalHFA.

### **IV. OTHER WORK IN THE GENERAL AREA**

**2009-037** *Department of Housing and Community Development: Housing Bond Funds Generally Have Been Awarded Promptly and in Compliance With Law, but Monitoring Continues to Need Improvement* (November 2009)

**2007-037** *Department of Housing and Community Development: Awards of Housing Bond Funds Have Been Timely and Complied With the Law, but Monitoring of the Use of Funds Has Been Inconsistent* (September 2007)

**V. RESOURCE REQUIREMENTS**

We estimate that this audit would require approximately 2,180 hours of audit work at a cost of approximately \$218,000 plus travel and administrative expenses and the possible costs related to an outside consultant, if necessary. We will conduct this audit using our existing budget authority to the extent funding is available for audits approved by the Joint Legislative Audit Committee.

**VI. REQUIRED DATE OF COMPLETION**

Senator Steinberg requested that the audit be completed by February 28, 2011.



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**ELAINE M. HOWLE, CPA**  
State Auditor

## ***Attachment B***

## DATE \_\_\_\_\_



## **Attachment C**

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### **General Terms and Conditions**

1. **PURPOSE**\_\_\_\_\_ (See Section II of this RFP).
2. **TERM**\_\_\_\_\_ (See Section II of this RFP).
3. **DESCRIPTION OF SERVICES**\_\_\_\_\_ (See Section II of this RFP).
4. **AMOUNT PAYABLE**

The total amount payable under this Agreement may not exceed \_\_\_\_\_ and is payable as follows:

- (a) The State shall pay the Contractor for each hour of services actually performed under this Agreement in accordance with the hourly rate schedule attached hereto as \_\_\_\_ (as negotiated with selected Contractor).
- (b) The State agrees to reimburse the Contractor for services performed by the Contractor, upon the prior written approval of the State in locations other than the premises of the State in Sacramento, California. The State shall pay the Contractor for these services in accordance with subdivision (a) of this paragraph.
- (c) In consultation with the Contractor, the State shall make arrangements for any travel required under this Agreement and shall pay the Contractor for travel and living expenses incurred by the Contractor, as documented by the Contractor in the manner prescribed by the State, in providing the services that are the subject of this Agreement at locations other than the Contractor's usual place or places of business. Reimbursement shall be made as follows:
  - (i) Airfare: commercial carrier coach fare rate, supported by a receipt.
  - (ii) Other transportation: actual, reasonable expense, supported by a receipt.
  - (iii) Living expense: actual expenses, not to exceed maximum state employee reimbursement rates for nonrepresented employees, to be claimed and computed in accordance with the Department of Personnel Administration regulations in effect when the expenses are incurred.

- (d) The State shall reimburse Contractor for Contractor's actual out-of-pocket expenses. Contractor shall not charge the State any overhead or cost of advancing funds in connection with these expenses. All reimbursable expenses shall be supported by documentation at the time of billing, unless otherwise agreed to by the State prior to the expenditure. Reimbursable out-of-pocket expenses shall include, but not be limited to:
  - (i) Postage
  - (ii) Messenger and courier service
  - (iii) In-house document reproduction at a rate not to exceed 10 cents per page. The billing statement shall contain a general description of documents copied, purpose, and number of copies made.
  - (iv) Long-distance telephone charges as they appear on the Contractor's bill (i.e., without markup)
  - (v) Outgoing facsimile at a rate not to exceed 25 cents per page, inclusive of long-distance charges
- (e) The consideration to be paid to the Contractor, as provided herein, is in compensation for all of the Contractor's expenses incurred in performance under this Agreement, including travel and living expenses.
- (f) The State may withhold an amount equal to ten percent (10%) of the amount claimed on each invoice submitted by the Contractor. The amounts withheld shall be paid by the State upon successful completion and acceptance of the work project by the State, and a determination by the State that Contractor has complied with Paragraph 9 of these General Terms and Conditions.
- (g) The State, in its sole discretion, may reduce the amount payable for a specific deliverable that the Contractor fails to deliver on the mutually agreed upon date by up to five percent (5%) of the amount payable for that deliverable.
- (h) The State shall make payment to the Contractor, as promptly as fiscal procedures permit, for services performed under this Agreement in accordance with applicable completion criteria and in accordance with the invoices submitted by the Contractor. The State's obligation to pay any amounts due under this Agreement is contingent upon the appropriation and approval of funds for that purpose. That payment is subject to Paragraph 15 of these General Terms and Conditions.
- (i) The Contractor, when billing the State for services under this Agreement, shall itemize the dates and hours, together with a description of the services performed, and shall identify specifically the individual performing those services and his or her title (for example, principal or associate consultant).

- (j) It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the audit services contemplated by the Agreement, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of the Agreement.
- (k) It is mutually understood between the parties that this is an option contract that may include services for multiple years and that the contract that may have been written before ascertaining the availability of the legislative appropriation of funds for the period covered. It was written for the mutual benefit of both parties to avoid program and fiscal delays.

The parties mutually agree that if the State Legislature does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

This contract, so far as it relates to the State, is valid and enforceable only if sufficient funds are made available to the State by the California State Legislature for the purpose of this program. In addition, this contract is subject to any special restrictions, limitations, conditions, any statute enacted by the State Legislature that may affect the provisions, terms or funding of this contract in any manner. The State has a financial obligation under this Agreement or the related Addendum to determine that existing appropriations are available, sufficient in amount to pay for such purchases or such other financial obligations.

Each participant has the option to terminate its participation, or to amend its contract, to reflect any reduction in funds.

## **5. CONTRACTOR PERSONNEL**

- (a) The Contractor, and the agents, employees, and subcontractors of the Contractor, shall act in the performance of this Agreement, in an independent capacity and not as officers, employees, or agents of the State.
- (b) Subject to Subparagraph (a) of this Paragraph 5, the Contractor shall ensure that its employees and agents, whenever performing services on the State's premises, observe all reasonable instructions and directions issued by the State.
- (c) The individuals named in the Agreement as identified by the Contractor and approved by the State, are essential to the services to be performed by the Contractor pursuant to this Agreement. The Contractor shall provide the State with names and resumes of the staff performing the work prior to commencing the work for review and approval. Should any of those individuals no longer be employed by the Contractor, or no longer be assigned by the Contractor to the performance of those services during the term of this Agreement, for whatever reason, the Contractor shall notify the State immediately in writing and the State shall consult promptly on a replacement. If the State indicates in writing to the Contractor that the proposed replacement is not satisfactory, the State may

terminate this Agreement immediately by written notice and shall pay the Contractor for all work completed prior to the termination.

- (d) Nothing contained in this Agreement or otherwise shall create any contractual relationship between the State and any subcontractors, and no subcontractor shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

## **6. PROJECT COORDINATOR**

\_\_\_\_\_ is the designated Project Coordinator under this Agreement. The State may change the Project Coordinator at any time by submitting to the Contractor a notice of change signed by the State. \_\_\_\_\_ is the designated Project Coordinator for the Contractor. \_\_\_\_\_, on behalf of the Contractor, shall be responsible for coordinating with the State as required, or necessary for performance of the services provided under this Agreement.

## **7. BUSINESS SERVICES COORDINATOR**

\_\_\_\_\_ is the designated Business Services Coordinator. Any questions regarding travel, reimbursements, billing, or other similar questions should be directed to \_\_\_\_\_ is the designated Business Services Coordinator for the Contractor.

## **8. CONFIDENTIALITY OF INFORMATION**

- (a) The audit reports and records, documents, or information used in support of the reports that are made available to the Contractor, or that are generated by the Contractor, during the course of the audit, including, but not limited to all financial, statistical, proprietary, market sensitive, highly sensitive, personal, technical, and other information used in support of or contained in those reports, are confidential and shall be protected by the Contractor from unauthorized use or disclosure, as described in this agreement. In providing that protection, the Contractor shall comply with this agreement and any other reasonable procedural requirements of the State that are provided in writing to the Contractor.
- (b) Except as required by law or legal process, the Contractor shall not publicly disclose data or disseminate the contents of any draft audit report or any workpapers, records, documents, or information used in support of any draft audit report. Except as required by law or legal process, the Contractor shall not publicly disclose data or disseminate the contents of the final audit report or any records, documents, or other information used in support of the audit report without the written permission of the State. Permission to publicly disclose the contents of an audit report or workpapers on one occasion on behalf of the State or to give testimony at a public hearing held by a legislative

committee relating to the audit report shall not authorize the Contractor to further disclose information in the report or to disseminate this information on any other occasion on behalf of the State.

- (c) With the exception of comments made about the audit to the State or other state agencies, the Contractor shall not make comments to any individual, including, but not limited to, any member of the media regarding the audit or audit workpapers, nor shall the Contractor comment on the State's actions regarding the audit, without the prior written consent of the State.
- (d) The Contractor acknowledges and understands that it is a misdemeanor for the State or any employee or former employee of the State to divulge in any manner not permitted by law, the particulars of any record, document, or information the disclosure of which is restricted by law. This restriction includes, but is not limited to, records, documents, or information reviewed in connection with the audit that are not used in support of the final audit report. This prohibition also applies to any person or business entity and to the employees and former employees of this person or business entity that has assisted the State in the course of an audit or that has been furnished a draft copy of an audit report for comment and review (Government Code Section 8545.1).
- (e) The Contractor has reviewed and understands and agrees to be bound by the provisions of the Confidentiality Agreement, which is attached as \_\_\_\_\_. Contractor agrees that each individual assigned by Contractor to perform services under this Agreement shall sign the Confidentiality/Nondisclosure Acknowledgement Form prior to performing those services, which is attached hereto as Attachment D.

## **9. RECORD RETENTION**

- (a) Any records obtained by Contractor during the course of the audit from any California public entity pursuant to the authority of the State are the exclusive property of the State and shall be returned to the State; however, the Contractor may retain copies of those records. All communications and workpaper records obtained, originated, or prepared by the Contractor pursuant to this Agreement, including papers, reports, charts, interview notes, and other documentation compiled by the Contractor pursuant to this Agreement, including the Contractor's administrative communications and records relating to this Agreement, shall be delivered to and shall become exclusive property of the State. The Contractor shall provide the State with copies of all such documents.
- (b) During the course of the audit, at the request of the State, the Contractor shall promptly return all originals and copies of originals and copies of originals of writings, including, but not limited to, electronic copies, that were obtained by the Contractor from any California public entity pursuant to the authority of the State in connection with the audit. Not later than 14 days following the completion of consulting services by the Contractor under this Agreement, the Contractor shall return all such original writings to the State. Notwithstanding the foregoing, the Contractor may retain copies of any such writings for workpaper purposes.

- (c) If Contractor is requested pursuant to subpoena or other legal process to produce its documents relating to this engagement for the State in judicial or administrative proceedings to which Contractor is not a party, the State shall reimburse Contractor at its standard billing rates for its professional time and expenses, including reasonable attorney's fees, incurred in responding to such requests.

## **10. RIGHTS IN DATA**

The ideas, concepts, know-how, or techniques relating to the subject matter of each individual project, developed during the course of this Agreement by the Contractor or jointly by the Contractor and the State can be used by either party in any way it may deem appropriate.

All inventions, discoveries or improvements of the techniques or programs or materials developed pursuant to this Agreement shall be the property of the State. The State agrees to grant a nonexclusive royalty-free license for any such invention, discovery, or improvement to the Contractor or any other such person and further agrees that the Contractor or any other such person may sublicense additional persons on the same royalty-free basis.

This Agreement shall not preclude the Contractor from developing materials outside this agreement, which are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this agreement. Pursuant to this Agreement, all preexisting intellectual property, copyrights, trademarks and products held by the Contractor shall be the sole property of the Contractor.

## **11. STATE PERSONNEL**

The Contractor will not be permitted to use State personnel for performing services that are the responsibility of the Contractor unless that use is previously agreed to in writing by the Project Coordinator, and any appropriate adjustment in price is made. No charge will be made to the Contractor for the services of state employees while performing, coordinating, or monitoring functions.

## **12. DATA PROTECTION PROTOCOLS**

The Contractor agrees to adhere to the State's data protection protocols, which are attached hereto as Attachment E and hereby incorporated by reference. The Contractor shall ensure that all assigned personnel are aware of these protocols and they sign and return to the State the attached acknowledgement form.

### **13. ASSIGNMENT**

The Contractor may not transfer by assignment, subcontract, or novation the performance of this Agreement or any part thereof except with the prior written approval of the State as to each such assignment, subcontract, or novation.

### **14. AMENDMENT OF AGREEMENT**

This Agreement may be amended by mutual consent of the State and the Contractor. An alteration of or variation from the terms of this Agreement is not valid unless made in writing and signed by the parties of this Agreement.

### **15. NOTICE**

(a) Notice to either party may be given by certified mail properly addressed. Postage must be fully prepaid to the address beneath the name of each respective party in subparagraphs (c) and (d) of this Paragraph 15. That notice shall be effective when received as indicated by post office records or, if deemed undeliverable by post office, that notice shall be effective nevertheless 15 days after mailing.

(b) Alternatively, notice may be given by personal delivery by any means whatsoever to the party at the address designated. That notice shall be deemed effective when delivered unless a legal holiday for state offices commences during said 24-hour period, in which case the effective time of the notice shall be postponed 24 hours for each intervening day.

(c) For the above purposes, the State's address:

Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

(d) For the above purposes, the Contractor's address is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **16. TERMINATION**

(a) The State may terminate this Agreement if it becomes necessary to end the project prior to its conclusion, upon giving a 3-day advance notice in writing to the Contractor, as appropriate, in the manner herein specified. In that event, the Contractor agrees to use all reasonable efforts to mitigate any expenses or obligations hereunder.

(b) In the event of termination, the State shall, subject to the appropriation and the availability of funds for that purpose, pay the Contractor for all satisfactory services

rendered prior to notice of termination and for all expenses incurred by the Contractor prior to termination that are not included in charges for service rendered prior to termination and that could not have been avoided by reasonable efforts of the Contractor.

- (c) The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor in accordance with Subparagraph (b) of this Paragraph 16.

#### **17. COVENANT AGAINST GRATUITIES**

The Contractor warrants by signing hereon that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or by any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement. For breach or violation of this warranty, the State may terminate this Agreement immediately, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items that the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this Paragraph 17 are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

#### **18. CONFLICT OF INTEREST/INDEPENDENCE DISCLOSURE REQUIREMENTS**

- (a) Pursuant to the Conflict of Interest Code for the State formulated under the Political Reform Act of 1974, California Government Code Sections 81000 et seq., the State includes certain contractors to the State within the list of designated employees required to complete a Statement of Economic Interest (Form 700), unless upon a determination by the State that the range of duties that the consultant is required to perform are limited in scope and, thus, not required to fully comply with the disclosure requirements. Pursuant to this policy, the State may require any individual performing auditing services under this Agreement to complete Form 700 and submit it to the State not less than 30 days from the date of this Agreement, or the request of the State, whichever is later. Initially, each individual designated in this agreement as serving on the project lead team shall submit Form 700, and, as assigned, other individuals providing consulting service may be required to complete Form 700, depending on their duties. In addition, if during the course of the audit and after the Form 700 is submitted, any such individual becomes aware of any additional information that Form 700 would ordinarily require that individual to disclose, he or she must immediately notify the State of that information. The Contractor shall make each individual assigned to perform services under this Agreement aware of this Paragraph 18 and shall require each individual designated by the State to prepare and submit Form 700.



- (b) This Paragraph 18 shall not be read to express any views or opinions of the State Auditor as to whether any individual providing auditing services under this Agreement is subject to the Political Reform Act of 1974. Any questions about the applicability of that Act to any such individual should be directed to the California Fair Political Practices Commission.
- (c) In all work performed under this contract, the Contractor shall agree to be free both in fact and appearance from personal, external, and organizational impairments to independence, as required by the general standards relating to independence contained in the Government Auditing Standards (GAO 03-673G). In this regard, the Contractor shall complete, and have each individual assigned to the engagement complete, the Independence Questionnaire, which is attached hereto as Attachment K, and hereby incorporated by reference into this Agreement. If any individual who is not listed in this agreement is assigned to perform the services under this Agreement, Contractor shall provide an additional letter, conforming to Attachment K, regarding that individual or individuals.

## **19. WAIVER**

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. The failure of the State to enforce at any time any of the provisions of this Agreement or to require at any time performance by the Contractor of any of the provisions, shall in no way be construed to be a waiver of such provisions nor in any way to affect the validity of this Agreement or any part thereof or the right of the State thereafter to enforce each and every such provision.

## **20. DISPUTES**

- (a) Any dispute between the parties arising under or relating to the performance of this Agreement, which is not disposed of by agreement, shall be decided by the State and that decision shall be reduced to writing and mailed or otherwise furnished to the Contractor.
- (b) If the Contractor does not agree with the State's decision, either party may assert its other rights and remedies within this Agreement or within a court of competent jurisdiction.

## **21. LIMITATION OF LIABILITY**

- (a) The State's liability for this Agreement should not exceed the total amount payable under the Agreement.
- (b) In no event will the State be liable for consequential, incidental, indirect, special or punitive damages, even if notification has been given as to the possibility of such damages.

## **22. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY**

The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the bureau's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.

## **23. INDEMNIFICATION**

The Contractor agrees to indemnify, defend, and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.

## **24. LAW GOVERNING**

This Agreement, and any amendments to this Agreement, shall be governed by the laws of the State of California both as to interpretation and performance regardless of the specific location of any performance.

## **25. AGREEMENT IS COMPLETE**

This Agreement represents the complete and exclusive statement of the agreements between the State and the Contractor with respect to the subject matter of this Agreement, and supersedes all prior agreements, proposals, representations, and other communications, written or oral, between the State and the Contractor regarding this subject matter. The State and the Contractor agree that there are no oral or written covenants, conditions, or agreements with respect to the subject matter of this Agreement except as set forth in this Agreement.

## **26. PREVAILING CLAUSES**

In the event of a conflict between the provisions of any Rider or other Attachment to this Agreement and the provisions of the General Terms and Conditions of this Agreement, the provisions of these General Terms and Conditions shall govern.

## **27. CAPTIONS**

The paragraph headings appearing in this Agreement have been inserted for convenience and for ready reference. They do not purport to and shall not be deemed to define, limit, or extend the scope or intent to the paragraphs to which they pertain.

## **28. PAYMENTS**

The Contractor will submit invoices at least monthly. The billings will include a separate itemized accounting of all charges, including appropriate original receipts for travel expenses and other administrative expenses. Invoices will be submitted in duplicate and sent to:

Bureau of State Audits  
Attention: Accounting Office  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

## **29. MATERIALS DELIVERY**

All report, materials, and communications, except as provided in Paragraph 28 to this Agreement, are to be delivered to the Project Coordinator:

Bureau of State Audits  
Attention: \_\_\_\_\_  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

## **30. FORCE MAJEURE**

Except for defaults of subcontractors, the Contractor and the State are not responsible for delays or failures to perform resulting from acts beyond the control of the nonperforming party. Those acts include, but are not limited to, acts of god, strikes, lockouts, riots, acts of war, epidemics, earthquakes, other disasters, governmental statutes or regulations imposed after the fact, and ancillary functions or utilities that are provided by a person or entity not a party to this Agreement. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and the default arises out of causes beyond the control of either the Contractor or the subcontractor, without the fault or negligence of either of them, the Contractor is not liable for damages for that delay or failure, unless the supplies or services to be furnished by the subcontractor were available from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

## **31. NONDISCRIMINATION**

During the performance of this Agreement, Contractor and its subcontractor shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over

40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

### **32. TIME OF PERFORMANCE**

Time is of the essence for purposes of this Agreement including the performance of services under any schedule established under this Agreement.

### **33. WITHHOLDING ON PAYMENTS TO CALIFORNIA NONRESIDENTS**

Payments made to California nonresidents, including corporations, limited liability companies, and partnerships that do not have a permanent place of business in this state are subject to seven percent (7%) state income tax withholding (California Revenue and Taxation Code Section 18662).

Types of income subject to withholding include, but are not limited to, payments for services performed in California and payments of leases, rents and royalties for property (real or personal) located in California. No withholding is required on payments for goods.

The Franchise Tax Board may reduce the withholding if the seven percent (7%) will result in substantial overwithholding or waive the withholding if the payee has a current history of filing California returns and/or making estimated payments when due. For more information, or to request a waiver or reduced withholding rate, contact:

Nonresident Withholding Waiver Requests  
Nonresident Withholding Section MS F-265  
Franchise Tax Board  
PO Box 651  
Sacramento, CA 95812-0651  
Telephone: (916) 845-4900; Fax: (916) 845-4831

### **34. AGENCY LIABILITY**

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the

State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

### **35. INSURANCE REQUIREMENTS**

- (a) Insurance companies must be acceptable to the State. If self-insured, review of financial information may be required. Coverage for both general negligence and professional liability must be in-force for the complete term of contract. If insurance coverage expires during the term of the contract, a new certificate must be received by the State at least ten (10) days prior to the expiration of this contract. Insurance policies shall contain a provision that states the coverage will not be cancelled without 30 days prior written notice to the State. The Contractor is responsible for any deductible or self-insured retention contained within the insurance program.
- (b) If the Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such even, subject to the provisions of this Contract.
- (c) Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the State.
- (d) The Contractor shall maintain general liability insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. The policy must include the State of California, its officers, agents, employees and servants as additional insured, but only insofar as the operations under the contract are concerned. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. Contractor shall provide proof of Professional Errors and Omissions Insurance covering any damages caused by an error, omission or any negligent acts.

NOTE: ADDITIONAL TERMS AND CONDITIONS MAY APPLY DEPENDING ON THE PROPOSAL AND/OR THE PROPOSER.

## **Attachment D**

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### **Bureau of State Audits, Confidentiality/Nondisclosure Agreement**

The undersigned acknowledges and agrees, on behalf of ("the Contractor") that any records, documents, and information, or any draft or final audit report that the undersigned reviews or produces in connection with providing auditing services to the Bureau of State Audits (State) relating to the assessment of CalHFA's financial position shall be subject to the terms of this Confidentiality/Nondisclosure Agreement (agreement). The undersigned acknowledges and agrees to all of the following:

- (a) The audit reports and records, documents, or information used in support of the reports that are made available to the Contractor, or that are generated by the Contractor, during the course of the audit, including, but not limited to all financial, statistical, proprietary, market sensitive, highly sensitive, personal, technical, and other information used in support of or contained in those reports, are confidential and shall be protected by the Contractor from unauthorized use or disclosure, as described in this agreement. In providing that protection, Contractor shall comply with this agreement and any other reasonable procedural requirements of the State that are provided in writing to the Contractor.
- (b) Except as required by law or legal process, the Contractor shall not publicly disclose data or disseminate the contents of any draft audit report or any records, documents, or information used in support of any draft audit report. Except as required by law or legal process, the Contractor shall not publicly disclose data or disseminate the contents of the final audit report or any records, documents, or other information used in support of the audit report without the written permission of the State. Permission to disclose the contents of an audit report on one occasion on behalf of the State or to give testimony at a public hearing held by a legislative committee relating to the audit report shall not authorize the Contractor to further disclose information in the report or to disseminate this information on any other occasion on behalf of the State.
- (c) With the exception of comments made about the audit to the State, the Contractor shall not make comments to any individual, including, but not limited to, any member of the media regarding the audit, nor shall the Contractor comment on the bureau's actions regarding the audit, without the prior written consent of the State.
- (d) The Contractor acknowledges and understands that it is a misdemeanor for the State or any employee or former employee of the State to divulge in any manner not permitted by law, the particulars of any record, document, or information the disclosure of which is restricted by law. This restriction includes, but is not limited to, records, documents, or information reviewed in connection with the audit that are not used in support of the final audit report. This prohibition also applies to any person or business entity and to the employees and former employees of this person or business entity that has assisted the State in the course of an audit or that has been furnished a draft copy of an audit report for comment and review (Government Code Section 8545.1).

\_\_\_\_\_  
Company/Firm Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## ***Attachment E***

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### ***Encryption and Information Privacy Policy***

#### **BACKGROUND**

Theft of portable computing devices, such as laptop computers, is a problem in the state and in private industry. Theft and other loss of portable computing equipment can lead to the compromise of confidential, sensitive, or personal data, which in turn can lead to privacy issues and costly follow-up activities.

The state continues to experience situations in which confidential, sensitive, or personal data is compromised when an unencrypted electronic device is lost or stolen. Budget Letter 05-32 issued by the Department of Finance requires encryption of state data that is confidential, sensitive, and personal when it is stored on portable computing devices (including, but not limited to, laptops and notebook computers) and/or portable electronic storage media (including, but not limited to, optical discs and flash memory storage devices).

Government Code Section 8545.2, grants the Bureau of State Audits a very broad right of access to the records of state agencies and other public entities it is directed to audit. Additionally, the State may receive information from the private sector and agree to keep that information confidential. Since the State has “stand in their shoes authority” over auditee information and at times receives sensitive information from the private sector, the State must be vigilant in protecting personal, sensitive or confidential information from inappropriate or unauthorized access, use or disclosure, regardless of media type. In addition, the State is the owner of sensitive information, such as personnel records, and must also be vigilant in protecting those records.

This policy is not intended to limit the bureau’s right to access the records of public entities. Rather, it is intended to establish protocols to minimize the risk that those records are inadvertently disclosed.

#### **POLICY**

Whether the State is the custodian or the owner of the confidential information, all employees must ensure the security and integrity of that information. Individuals of non-government entities with whom the State has contracted are also included under

this mandate (Civil Code Section 1798.19). This policy pertains to all information assets, including, but not limited to electronic assets and paper assets.

All State employees and contractors are responsible for providing encryption, or equally effective measures, for all personal, sensitive, or confidential information that is stored on any portable electronic storage media (including, but not limited to, optical discs and flash memory storage devices) and on portable computing devices (including, but not limited to, laptop, handheld, and notebook computers).

This policy applies to all portable electronic storage media or portable computing devices that contain state data, including media owned by employees, vendors, contractors, or researchers. Where state-owned confidential, sensitive, and/or personal information exists, it must not be allowed on any portable equipment or media that is not protected.

Personal, sensitive, or confidential information stored on shared drives on a local area network (LAN) is not subject to this policy because information stored on these drives is not considered portable. In addition, this policy does not apply to mainframe and server tapes at this time.

## **RULES OF CONDUCT**

The following is an overview of the rules of conduct the State follows to protect that data:

### ***Responsibilities of all staff:***

- All electronic transmittals of personal, sensitive, or confidential information between State staff and auditees or contractors must be encrypted.
- Staff must limit the gathering of data to only what is relevant and necessary, and redact extraneous information whenever possible.
- Staff may work only with secure servers while away from the office.
- Each team leader is responsible for developing and maintaining a written list of staff (including signatures), who are authorized to access any sensitive data on any audit.
- Staff must ensure that all hard drives and other storage devices, including flash drives, are encrypted.
- Staff must follow the bureau's protocols for password protection, which requires 8 plus characters, including numbers and symbols, and new passwords every 42 days. Staff should employ "strong" passwords. A strong password conforms to the following parameters:



- i. Is never shared with anyone else
  - ii. Is over 8 characters in length
  - iii. Uses at least 1 character from each of the following character types:
    1. Lower case letter (e.g. a)
    2. Upper case letter (e.g. B)
    3. Number (e.g. 3)
    4. Punctuation mark or symbol (e.g. \$)
  - iv. Is easy to remember, but not be easily guessable or related to staff (such as SSN's, addresses, or phone numbers)
- Staff assigned to audits that will involve gathering particularly sensitive information, such as HIPPA protected data, must meet with the Information Security Officer and the Information Privacy Officer prior to gathering the data.
  - All staff with access to particularly sensitive information, such as HIPPA protected data, must certify in writing, prior to accessing such data, that they are aware of the nature of the data, and have reviewed, understand, and agreed to adhere to the Rules of Conduct as specified in this section. This will occur at the meeting with the Information Security Officer and the Information Privacy Officer.
  - Staff must use secure methods to transport data (i.e. carry-on luggage when traveling, or other secure transmittal methods).
  - Staff may only use State computer equipment to receive, store, and transmit electronic information.
  - Staff must preserve the "chain of custody" over data, whether electronic or hard copy.
  - Staff must transfer records gathered from state agencies and stored on laptops to the bureau's network drives as soon as practicable.
  - Staff must secure all workpapers and other confidential materials when away from their desks.
  - Any breach of security must be promptly reported to the bureau's Information Security Officer and Information Privacy Officer,
  - Staff must shred all backup, hard-copy, confidential material when they are no longer needed.
  - Staff must ensure that sensitive data on discs be overwritten before being disposed.
  - Staff (assisted by the Information Technology Unit) are responsible for ensuring that the reclaimed space on their hard drives is overwritten at the end of the audit.
  - Staff (assisted by the Information Technology Unit) are responsible for ensuring that the bureau's electronic information security systems limit access

to personal, sensitive, or confidential information to those who need access or those who have a right of access, as appropriate.

## **DEFINITIONS**

For the purposes of this policy:

Personal information is information that identifies or describes an individual as defined in, but not limited by, the statutes listed below. This information must be protected from inappropriate access, use, or disclosure and must be made accessible to data subjects upon request:

- Notice-triggering personal information – specific items or personal information (name plus Social Security Number, driver's license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if an unauthorized person acquires it (See Civil Code Sections 1798.29 and 1798.3);
- Protected Health Information – individually identifiable information created, received, or maintained by such organizations as health care payers, health care providers, health plans, and contractors to these entities, in electronic or physical form. State law requires special precautions to protect such data from unauthorized use, access or disclosure (See Confidentiality of Medical Information Act, Civil Code Section 56 et seq. and the Patients' Access to Health Records Act, Health and Safety Code Sections 123100-123149.5); and
- Electronic Health Information – individually identifiable health information transmitted by electronic media or maintained in electronic media. Federal regulations require state entities that are health plans, health care clearinghouses, or health care providers that conduct electronic transactions ensure the privacy and security of electronic protected health information from unauthorized use, access, or disclosure (See Health Insurance Portability and Accountability Act, 45 C.F.R. parts 160 and 164).

Sensitive information is information maintained by state agencies that requires special precautions to protect it from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either public or confidential. It is information that requires a higher than normal assurance of accuracy and completeness. Thus the key factor for sensitive information is that of integrity. Typically, sensitive information includes records of agency financial transactions and regulatory actions.

Confidential information is information maintained by state agencies that is exempt from disclosure under the provisions of the California Public Records Act (Government Code Sections 6250-6265) or other applicable state or federal laws.

\*\*\*\*\*

The Contractor shall comply with the Bureau of State Audits' (State) policy on data encryption and information privacy (see attached policy). Please sign the certification below. If you have any questions or concerns regarding this policy, please contact Karl Okamoto, Information Security Officer, or Stephanie Ramirez-Ridgeway, Information Privacy Officer.

## **Attachment F**

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### **Certification of Special Terms and Conditions**

1. STATEMENT OF COMPLIANCE: The Contractor's signature affixed hereon and dated shall constitute a certification under the penalty of perjury under the laws of the State of California that the Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code, Section 12990 (a-f) and Title 2, California Code of Regulations, Section 8103.
2. DRUG-FREE WORKPLACE CERTIFICATION: By signing this contract, the Contractor or grantee hereby certifies under penalty of perjury under the laws of the State of California that the Contractor or grantee will comply with the requirements of the Drug-Free Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
  - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code, Section 8355 (a).
  - b. Establish a Drug-Free Awareness Program as required by Government Code, Section 8355 (b) to inform employees about all of the following:
    - 1) The dangers of drug abuse in the workplace;
    - 2) The person's or organization policy of maintaining a drug-free work workplace;
    - 3) Any available counseling, rehabilitation and employee assistance program; and
    - 4) Penalties that may be imposed upon employees for drug abuse violations.
  - c. Provide, as required by Government Code, Section 8355 (C), that every employee who works on the proposed contract:
    - 1) Will receive a copy of the company's drug-free policy statement; and
    - 2) Will agree to abide by the terms of the company's statement as a condition of employment on the contract.

Failure to comply with these requirements may result in suspension of payments under the contract or termination of the contract or both and the Contractor or grantee may be ineligible for award or any future state contracts if the State determines that any of the following has occurred: (1) the Contractor or grantee has made false certification or (2) violates the certification by failing to carry out the requirements as noted above.

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: By signing hereon the Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the federal court which orders the Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with Public Contract Code, Section 10296.
4. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
5. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

#### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

1. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code, Section 3700).
6. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.)
7. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
8. CHILD AND FAMILY SUPPORT COMPLIANCE CERTIFICATION: The Contractor acknowledges the policy of the State of California, as set forth in Section 7110 of the California Public Contract Code, to require compliance with state and federal laws

relating to child and family support enforcement. By signing this Agreement, the Contractor certifies that, to the best of the Contractor's knowledge, the Contractor is in full compliance with all earnings assignment orders for child support or family support affecting the Contractor's employees.

9. CORPORATE QUALIFICATION TO DO BUSINESS IN CALIFORNIA:

When agreements are to be performed in the State by corporations, the contracting agencies will verify that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

"Doing Business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will an incorporated contractor performing within the state not be subject to the franchise tax.

Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

10. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board of an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal laws relating to air or water pollution.

11. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

\_\_\_\_\_  
Company/Firm Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**Attachment H**

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**Small Business and Disabled Veteran Business Incentive**

**DVBE INCENTIVE OPTION WITHOUT DVBE PROGRAM REQUIREMENT**

In accordance with section 999.5(a) of the Military and Veterans Code, an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration GSPD-05-105 (Attachment J) and confirmed by the State. The incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. The following percentages will apply for awards based on low price.

<u>Confirmed DVBE Participation of:</u>	<u>DVBE Incentive</u>
5% or Over	5%
4% to 4.99%	Inclusive 4%
3% to 3.99%	Inclusive 3%
2% to 2.99%	Inclusive 2%
1% to 1.99%	Inclusive 1%



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## Attachment I

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### PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

**An Unsigned Proposal/Proposer Certification Sheet  
May Be Cause For Rejection**

1. Company Name	2. Telephone Number (   )	2a. Fax Number (   )
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. <b>Signature</b>	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____		
<b>NOTE:</b> A copy of your Certification is required to be included if either of the above items is checked "Yes". Date application was submitted to OSBCR, if an application is pending:		

Attachment J

Bidder Declaration

State of California—Department of General Services, Procurement Division  
GSPD-05-105 (EST 8/05) Solicitation Number \_\_\_\_\_

BIDDER DECLARATION

1. Prime bidder information (Review attached Bidder Declaration Instructions prior to completion of this form):
- a. Identify current California certification(s) (MB, SB, SB/NVSA, DVBE): \_\_\_\_\_ or None \_\_\_\_\_ (If "None," go to Item #2)
  - b. Will subcontractors be used for this contract? Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, indicate the distinct element of work your firm will perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that will deliver the products to the State, identify which solicited services your firm will perform, etc.). Use additional sheets, as necessary.
- \_\_\_\_\_
- c. If you are a California certified DVBE: (1) Are you a broker or agent? Yes \_\_\_\_\_ No \_\_\_\_\_  
(2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? Yes \_\_\_\_\_ No \_\_\_\_\_ N/A \_\_\_\_\_

2. If no subcontractors will be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?

CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.

Page \_\_\_\_\_ of \_\_\_\_\_

Bureau of State Audits  
Request for Proposal #10-02  
Assessment of CalHFA

State of California—Department of General Services, Procurement Division  
GSPD-05-105 (EST 8/05) Instructions

**BIDDER DECLARATION Instructions**

**All prime bidders (the firm submitting the bid) must complete the Bidder Declaration.**

- 1.a.** Identify all current certifications issued by the State of California. If the prime bidder has no California certification(s), check the line labeled "None" and proceed to Item #2. If the prime bidder possesses one or more of the following certifications, enter the applicable certification(s) on the line:
- Microbusiness (MB)
  - Small Business (SB)
  - Small Business Nonprofit Veteran Service Agency (SB/NVSA)
  - Disabled Veteran Business Enterprise (DVBE)
- 1.b.** Mark either "Yes" or "No" to identify whether subcontractors will be used for the contract. If the response is "No," proceed to Item #1.c. If "Yes," enter on the line the distinct element of work contained in the contract to be performed or the goods to be provided by the prime bidder. Do not include goods or services to be provided by subcontractors.
- Bidders certified as MB, SB, SB/NVSA, and/or DVBE must provide a commercially useful function as defined in Military and Veterans Code Section 999(e)(2)(A) for DVBEs and Government Code Section 14837(d)(4)(A) for small/microbusinesses. For questions regarding commercially useful function determinations made in conjunction with certification approval, contact the Department of General Services, Procurement Division, Office of Small Business and DVBE Certification (OSDC), OSD Certification and Compliance Unit via email at: [osdchelp@dgs.ca.gov](mailto:osdchelp@dgs.ca.gov)
- Bids must propose that certified bidders provide a commercially useful function for the resulting contract or the bid will be deemed non-responsive and rejected by the State. For questions regarding the solicitation, contact the procurement official identified in the solicitation.
- Note: A subcontractor is any person, firm, corporation, or organization contracting to perform part of the prime's contract.
- 1.c.** This item is only to be completed by businesses certified by California as a DVBE.
- (1) Declare whether the prime bidder is a broker or agent by marking either "Yes" or "No". The Military and Veterans Code Section 999.2 (b) defines "broker" or "agent" as a certified DVBE contractor or subcontractor that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.
- (2) If bidding rental equipment, mark either "Yes" or "No" to identify if the prime bidder owns at least 51% of the equipment provided (quantity and value). If **not** bidding rental equipment, mark "N/A" for "not applicable."
- 2.** If no subcontractors are proposed, do not complete the table. Read the certification at the bottom of the form and complete "Page \_\_\_\_ of \_\_\_\_" on the form.
- If subcontractors will be used, complete the table listing all subcontractors. If necessary, attach additional pages and complete the "Page \_\_\_\_ of \_\_\_\_" accordingly.

**2. (continued) Column Labels**

**Subcontractor Name, Contact Person, Phone Number & Fax Number**—List each element for all subcontractors.

**Subcontractor Address & Email Address**—Enter the address and if available, an Email address.

**CA Certification (MB, SB, DVBE or None)**—If the subcontractor possesses a current State of California certification(s), verify on the OSDC website ([www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus)) that it is still valid and list all current certifications here. Otherwise, enter "None." [Note: A SB/NVSA should not be participating as a subcontractor]

**Work performed or goods provided for this contract**—Identify the distinct element of work contained in the contract to be performed or the goods to be provided by each subcontractor. Certified subcontractors must provide a commercially useful function for the contract. (See paragraph 1.b above for code citations regarding the definition of commercially useful function.) If a certified subcontractor is further subcontracting a greater portion of the work or goods provided for the resulting contract than would be expected by normal industry practices, attach a separate sheet of paper explaining the situation.

**Corresponding % of bid price**—Enter the corresponding percentage of the total bid price for the goods and/or services to be provided by each subcontractor. Do not enter a dollar amount.

**Good Standing?**—Provide a response for each subcontractor listed. Enter either "Yes" or "No" to indicate that the prime bidder has verified that the subcontractor(s) is in good standing for all of the following:

- Possesses valid license(s) for any license(s) or permits required by the solicitation or by law
- If a corporation, the company is qualified to do business in California and designated by the State of California Secretary of State to be in good standing
- Possesses valid State of California certification(s) if claiming MB, SB, and/or DVBE status
- Is **not** listed on the OSDC website as ineligible to transact business with the State

**51% Rental?**—This pertains to the applicability of rental equipment. Based on the following parameters, enter either "N/A" (not applicable), "Yes" or "No" for each subcontractor listed.

Enter "N/A" if the:

- Subcontractor is NOT a DVBE (regardless of whether or not rental equipment is provided by the subcontractor) or
- Subcontractor is NOT providing rental equipment (regardless of whether or not subcontractor is a DVBE)

Enter "Yes" if the subcontractor is a California certified DVBE providing rental equipment and the subcontractor owns at least 51% of the rental equipment (quantity and value) it will be providing for the contract.

Enter "No" if the subcontractor is a California certified DVBE providing rental equipment but the subcontractor does NOT own at least 51% of the rental equipment (quantity and value) it will be providing.

**Read the certification at the bottom of the page and complete the "Page \_\_\_\_ of \_\_\_\_" accordingly.**

## ***Attachment K***

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### ***Independence Questionnaire/Conflicts of Interest Disclosure***

**Independence Questionnaire for** \_\_\_\_\_  
(type or write consultant's name)

Government Auditing Standards (GAO 03-673G) require that auditors be free both in fact and appearance from personal and external impairments to independence. To ensure that the independence standard is met, each consultant must disclose any impairment related to the entities or programs he/she will be auditing, which are listed below.

*Audited  
Entities:* \_\_\_\_\_

Do you have any of the following personal impairments:

- A family member who is a director, officer, or employee, and is in a position to exert direct and significant control over of the audited entity or program?
- A financial interest that is direct, or is significant/material, though indirect, in the audited entity?
- A decision-making role that could affect the entity's operations?
- Biases about policies or preconceived notions about the programs?
- Seeking employment with the audited entity?

If you responded yes to any of the above, please describe the impairment.

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Do you have any external impairments that would restrict your work or interfere with your ability to form independent and objective conclusions. External impairments are

external pressures, actual or perceived, from management or employees of the audited entity that would deter the auditor from acting objectively and exercising professional skepticism?

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If you responded yes, please describe the impairment.

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Signed	Date
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## **Attachment L**

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### **Required Attachment Checklist**

A complete proposal or proposal package will consist of the items identified below.

Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the State. For your proposal to be responsive, all required attachments must be returned. This checklist should be returned with your proposal package.

<u><b>Attachment</b></u>	<u><b>Attachment Name/Description</b></u>
_____ Attachment 1	Required Attachment Checklist
_____ Attachment 2	Four Copies of Proposal (in a sealed envelope)
_____ Attachment 3	Four Copies of Cost Proposal (separate from Proposal and in a sealed envelope)
_____ Attachment 4	Independence Questionnaire /Conflicts of Interest Disclosure (see Attachment K)
_____ Attachment 5	Confidentiality Statement/Nondisclosure Agreement (see Attachment D)
_____ Attachment 6	Bidders Declaration (Attachment J)
_____ Attachment 7	Certification of Special Terms and Conditions (Attachment F)
_____ Attachment 8	Proposal/Proposer Certification Sheet (Attachment I)
_____ Attachment 9	Darfur Contracting Certification (Attachment G)